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10/649,824	08/28/2003	Yukita Gotohda	2091-0288P	9008
2292 7590 02/23/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
MISLEH, JUSTIN P				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/649,824

Applicant(s)

GOTOHDA ET AL.

Examiner

JUSTIN P. MISLEH

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 4, 2008 & November 7, 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57, 59, 61 and 62 is/are pending in the application.
- 4a) Of the above claim(s) 21 - 57, 59, 61 and 62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments / Election/Restrictions

1. Applicant's arguments with respect to Claims 1- 20 have been considered but are moot in view of the new grounds of rejection.
2. Applicant's election with traverse of Figures 1 – 11 in the reply filed on November 7, 2008 is acknowledged. The traversal is on the ground(s) that Figure 31 is generic to Species I - IV based on paragraphs [0246]-[0248] of the specification. This is found persuasive. Applicant's election of Species I (Figures 1 – 11) in the reply filed on November 7, 2008 is acknowledged. Hence, **Claims 1 – 20 will be examined, as filed March 4, 2008, and Claims 21 – 57, 59, 61 and 62** are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.
4. **Claim 7 – 9 and 18 – 20** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
5. **Claims 7 and 18** are each directed towards “A program stored in a computer-readable medium for causing a computer to execute a method for controlling an imaging device.”

However, the specification never describes what is included as a “computer-readable medium. At best, the specification (as shown in paragraphs 2, 32, 48, 66, 80 and 104) simply

mentions a program stored in a computer-readable medium for causing a computer to execute a method for controlling an imaging device as being included as part of the invention.

Because the cited portions of the specification in regards to defining the computer-readable medium is ambiguous and leaves open the possibility that the computer-readable medium may comprise a non-statutory form, such as a carrier waves or electrical signal; the content of Claims 7-9 and 18-20 is non-statutory. To overcome this rejection, the Examiner recommends Applicant either clarify the ambiguities in the specification, without adding new matter, by making sure computer-readable medium is defined in statutory forms or amend the claims to remove any mention of a program; program product; or computer-readable medium.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1 – 9** are rejected under 35 U.S.C. 102(e) as being anticipated by Yamazaki (US 6,670,933).

8. The Examiner respectfully submits the claim groupings of claims 1-3, 4-6 and 7-9 are corresponding method, apparatus and program claim groups, respectively. For the sake of brevity, claim groupings 4-6 and 7-9 will be rejected together with claim grouping 1-3 using the claim language of claims 1-3, respectively.

9. For **Claims 1, 4 and 9**, Yamazaki disclose, as shown in figures 7, 8 and 10, a method for controlling an imaging device (see figure 10), in which a plurality of imaging devices are associated via a network to be operated (see figures 7 and 8), comprising:

transmitting photography notification data from one of said plurality of imaging devices (see step S166 in figure 10) to a desired imaging device (cameras 2, 3, 4, 5, In figure 10) among the plurality of imaging devices by using a peer-to-peer communication system (see figures 7 and 8 and column 11, line 47 – column 14, line 12), to cause the desired imaging device to perform photography notification when causing the plurality of imaging devices to perform a photography operation (see column 14, lines 4 – 9),

wherein after the desired imaging device performs the photography notification and the photography operation, the imaging device that has transmitted the photography notification data to the desired imaging device receives, by using the peer-to-peer communication system, image data acquired by the desired imaging device (see column 14, lines 20-27; column 15, lines 61-65; and column 16, lines 14-28).

10. As for **Claims 2, 5, and 8**, Yamazaki disclose, as shown in figures 7, 8 and 10, wherein one of the plurality of imaging devices transmits the photography notification data (see step 166 in figure 10).

11. As for **Claims 3, 6, and 9**, Yamazaki disclose, as shown in figures 7, 8 and 10, wherein the photography notification data is transmitted based on the photography operation of the one imaging device (see step 166 in figure 10).

12. **Claims 10, 12, 13, 14, 16, 17, 18 and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Grosvenor et al. (US 7,139,018 B2).

13. The Examiner respectfully submits the claim groupings of claims 10, 12, 13; 14, 16, 17; and 18, 20 are corresponding method, apparatus and program claim groups, respectively. For the sake of brevity, claim groupings 14, 16, 17 and 18, 20 will be rejected together with claim grouping 10, 12, 13 using the claim language of claims 10, 12, 13, respectively.

14. For **Claims 10, 14 and 18**, Grosvenor et al. disclose, as shown in figures 2 and 3, a method for controlling an imaging device, in which a plurality of imaging devices are associated via a network to be operated and each of the plurality of imaging devices photographs to acquire image data by one photography operation (see column 8, lines 14-45, and column 9, lines 9-57), comprising:

receiving, by using a peer-to-peer communication system, a plurality of sets of image data acquired by the plurality of imaging devices (see column 8, lines 14-45, and column 9, lines 9-57); and

collectively managing the plurality of sets of image data (see column 8, lines 14-45, and column 9, lines 9-57).

15. As for **Claims 12, 16, and 20**, Grosvenor et al. disclose, as shown in figures 2 and 3, wherein the plurality of image data are managed based on photography status information indicating a status of when the plurality of image data are photographed (see Picture Reference Code; column 13, line 44 – column 14, line 12).

16. As for **Claims 13 and 17**, Grosvenor et al. disclose, as shown in figures 2 and 3, wherein one of the plurality of imaging devices manages the plurality of image data (see column 8, lines 14-45, and column 9, lines 9-57).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. **Claims 11, 15 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Grosvenor et al. (US 7,139,018 B2).

19. As for **Claims 11, 15 and 19**, Grosvenor et al. disclose a picture reference code (see column 13, line 44 - column 14, line 12). Grosvenor et al. state, "Reference codes are advantageously added to the digital photographs prior to sending them to the repository. They are not essential for the invention to operate, but are desirable since they permit the repository to catalogue the photographs in a logical way." However, Grosvenor et al. do not specify "wherein a different file name is attached to each of the plurality of image data acquired by the plurality of imaging devices to collectively store the plurality of image data."

However, the Examiner respectfully takes **Official Notice** (MPEP § 2144.03) that both the concepts and advantages of attaching a different file name to each of the plurality of image data acquired by the plurality of imaging devices to collectively store the plurality of image data are well known and expected in the art. At the time the invention was made, it too would have

been obvious to one with ordinary skill in the art to have attached a different file name to each of the plurality of image data acquired by the plurality of imaging devices to collectively store the plurality of image data for the same advantage of permitting a file repository to catalogue photographs in a logical way.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

21. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Justin P. Misleh/
Primary Examiner
Group Art Unit 2622
February 19, 2009**